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Attorneys for Plaintiff Everest Indemnity Insurance
Company

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EVEREST INDEMNITY INSURANCE
COMPANY,

Plaintiff,

v.

AVENTINE-TRAMONTI
HOMEOWNERS ASSOCIATION, a
Nevada nonprofit corporation; and DOE
HOMEOWNERS' 1 through 500, TOWN
CENTER VENTURES, LLC, a Nevada
limited liability company; CAMS
CONSTRUCTION CORPORATION, a
Nevada corporation; ACCESS
TECHNOLOGIES; AMERICAN
ASPHALT & GRADING CO.;
AMPAM/RCR PLUMBING; ARC
ELECTRIC; AVANTI DOOR GROUP;
BAIR'S CARPET; BRANDON IRON,
INC.; C&W CLEANING; CENTURION
SECURITY SYSTEM; CLOSET
MASTERS; COAST WET PLUMBING,
INC.; CONSTANT LIGHTING;
CUSTOM HEALTH DISTRIBUTORS,
INC.; D & L FRAMING; DAN
BRADLEY'S GLASS SHOP, INC.;

CASE NO. 2-09-cv-1672-RCJ-RJJ

{Assigned to Judge Robert C. Jones and Magistrate
Judge Robert J. Johnston. (AXM)}

**STIPULATION TO MODIFY
SCHEDULING ORDER**

Ropers Majeski Kohn & Bentley
A Professional Corporation
Los Angeles

DESERT RAIN- ENVIRO SCAPE;
DISTINCTIVE FRAMING;
DISTINCTIVE MARBLE, INC.;
JOHNSON ELECTRIC; H & B
CONSTRUCTION; HARRISON DOOR
COMPANY; HIGH ENERGY
ELECTRIC; JAYLEE DEVELOPMENT,
LLC.; KEEGAN ENGINEERING, P.C.;
MASONRY BY BOB MARKS; METRO
ELECTRIC; MOTIVATIONAL
SYSTEMS, INC.; NEVADA GYPSUM
FLOORS, INC; NEVADA STAIRS, INC.;
NEVADA STATE PLASTERING; NEW
CRETE; NORPAC CONSTRUCTION
LLC; PACIFIC DRYWALL & PAINT;
PEARSON TRENCHING; PERSONAL
TOUCH INTERIORS; PIONEER
OVERHEAD DOORS; PIPES PAVING;
POOLS BY GRUBE; QUALITY
CABINETS; R. W. STUCCO, INC.;
RISING SUN PLUMBING, LLC.; SAN
GABRIEL, INC.; SEARS CONTRACT
SALES; SKYLINE INSULATION;
STATE INSULATION; SUMMIT
DRYWALL & PAINT; SUNRISE
MECHANICAL, INC.; SUPERIOR TILE
& MARBLE, INC.; UNITED RENTALS
HIGHWAY TECH; VAZZANA
UNDERGROUND; WEST COAST
FRAMING; WESTCOR WINDOWS &
PATIO DOOR; WESTERN PIPELINE
CONSTRUCTION CORP.; WILLIS
ROOFING CO., INC.; ZEPEDA BROS.
PAINT & DRYWALL

Defendants.

STIPULATION TO MODIFY SCHEDULING ORDER

Plaintiff Everest Indemnity Insurance Company and all Defendants who have appeared in this action, by and through their respective counsel, *stipulate to modify the Scheduling Order* by extending all remaining discovery and motion dates for at least 120 days, and hereby jointly request the Court to modify the Scheduling Order as follows:

1. Discovery in this action shall be completed on or before **January 5, 2011** (continued from August 30, 2010).

2. Disclosures specified in Fed. R. Civ. P. 26 (a)(1) shall be made on or before **July 30, 2010** (no date specified in the Scheduling Order).

3. Disclosures specified in Fed. R. Civ. P. 26 (a)(2) shall be made on or before **October 29, 2010** (continued from June 30, 2010) and disclosures respecting rebuttal experts shall be made on or before **November 30, 2010** (continued from July 30, 2010).

4. On or before **October 29, 2010** (continued from June 30, 2010), the parties shall file an Interim Status Report as required by LR 26-3, stating the time estimated for trial, three alternative dates for trial and whether or not trial will be proceeding or affected by substantive motions.

5. Dispositive motion in this matter should be filed on or before **February 4, 2011** (continued from September 30, 2010).

6. If no dispositive motions have been filed within the time frame specified in the Court's Modified Scheduling Order, then the parties shall file a written, joint proposed Pretrial Order by **February 4, 2011** (continued from September 30, 2010). If dispositive motions are filed, then the parties shall file a written, joint proposed Pretrial Order within 30 days of the date the Court enters a ruling on said dispositive motions.

7. Nothing in this Stipulation shall be construed to preclude any party from later making a request to the Court to further modify the Scheduling Order or any other motions.

Good cause exists for extending all discovery and motion deadlines because (1) the counsel for seven Pageantry entities ("Pageantry") who acted as general contractor and developer for the construction of the project, the alleged construction deficiencies of which give rise to the underlying action and to this interpleader action, has advised counsel for Everest Indemnity Insurance Company ("EIIC") that Pageantry has stated an intent to file for bankruptcy; (2) the counsel for Pageantry has filed a motion to withdraw, the hearing on which has been set for **July 13, 2010**; (3) to this date Pageantry has not responded to discovery propounded by EIIC. The responses were due May 26, 2010; (4) Pageantry entities are the only entities sued in the underlying action and as a result, its anticipated bankruptcy filing and withdrawal of its counsel

1 has significant impact on the events and deadlines in this action; (5) an overwhelming majority of
2 the parties have not yet made initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) in part
3 because the Scheduling Order did not set a deadline for such disclosures and because of the sheer
4 number of defendants in this action which were served at different times; (6) defendants Pipes
5 Paving and Rising Sun Plumbing each filed a motion for leave to file a counterclaim and the
6 Court has not yet issued a ruling in connection with those motions; and (7) all defendants (except
7 for the Association and Pageantry) have been named in the interpleader action because of their
8 potential liability for the construction defects and deficiencies at the project. However, none of
9 those defendants (except Pageantry) have yet been sued in the underlying action. Currently, a
10 motion to amend the underlying complaint has been filed to add Rising Sun Plumbing, RCR and
11 Coast West Plumbing. An overwhelming majority of defendants named in the interpleader action
12 do not yet know the nature, scope or extent of liability or damages they may face in connection
13 with the underlying action.

14 **This is the first request** of the parties to extend discovery and motion deadlines. No
15 prior extensions have been requested by any party.

16 The parties understand that the Court's Scheduling Order mandates that any motion or
17 stipulation to extend discovery shall be received by the Court at least twenty (20) days prior to the
18 date fixed for completion of discovery by the Scheduling Order. The parties realize that this
19 stipulation may be untimely as to disclosures pursuant to Fed. R. Civ. P. 26(a). However, the
20 factors mentioned above and the difficulty (due to sheer number of the parties and conflicting
21 schedules of counsel) and the attendant delay in arranging a telephonic conference to meet and
22 confer (which occurred on June 28, 2010) regarding the various discovery and related issues favor
23 the Court's entering an order upon the stipulation of the parties to modify the Scheduling Order.
24 In the alternative, the parties request that the Court set a Scheduling Conference as soon as
25 possible.
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1 Dated: June 29, 2010

ROPERS, MAJESKI, KOHN & BENTLEY

2
3 By: /S/ Brian Vanderhoof

4 BRIAN VANDERHOOF
5 Attorneys for Plaintiff EVEREST
INDEMNITY INSURANCE COMPANY

6 Dated: June 29, 2010

JOHNS & DURRANT LLP

7
8 By:

9 /s/ Neil B. Durrant

10 NEIL B. DURRANT
11 Attorneys for Plaintiff EVEREST
INDEMNITY INSURANCE COMPANY

12 Dated: June 29, 2010

GREENBERG TRAURIG

13
14 By:

15 /S/ Mark Ferrario

16 MARK FERRARIO
17 TAMI COWDEN
18 Attorneys for Defendants and
19 Counterclaimant
20 Town Center Ventures, LLC; Cams
Construction Corporation; Pageantry
Communities, Inc.; Pageantry
Development; Pageantry Realty, Inc.;
Pageantry Residential. LLC.; Premier
Construction Corp.

21 Dated: June 29, 2010

HANSEN RASMUSSEN, LLC

22
23 By:

24 /S/ Scott Rasmussen

25 SCOTT RASMUSSEN
26 TONY M. MAY
27 Attorneys for Nevada Gypsum Floors, Inc.
28 and Western Pipeline Construction
Corporation

1 Dated: June 29, 2010

LAW OFFICES OF JOHN AND
ELIZABETH FOLEY

2
3
4 By:

/S/ Elizabeth J. Foley

ELIZABETH J. FOLEY

Attorneys for The Avanti Door Group

5
6 Dated: June 29, 2010

CANEPA, RIEDY & RUBINO

7
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9 By:

/S/ Terry W. Reidy

TERRY W. RIEDY

Attorneys for Aventine-Tramonti
Homeowners Association

10
11 Dated: June 29, 2010

FARMER CASE & FEDOR

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14 By:

/S/ Anthony T. Case

ANTHONY T. CASE

KATHRYN I. HOLBERT
Attorneys for Defendant Bair's Carpet

15
16 Dated: June 29, 2010

RICHARD L. TOBLER, LTD.

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20 By:

/S/ Richard L. Tobler

RICHARD L. TOBLER

Attorneys for Defendant Nevada Stairs Inc.

21
22 Dated: June 29, 2010

LAW OFFICES OF HAYES & WELSH

23
24
25 By:

/S/ Martin L. Walsh

MARTIN L. WELSH

Attorneys for American Asphalt & Grading
Company

1 Dated: June 29, 2010

ROBERTSON . CLARK, LLP

2
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4 By:

/S/ Courtney E. Leverty

COURTNEY E. LEVERTY

Attorneys for Defendant, Nevada State
Plastering

5
6
7 Dated: June 29, 2010

MARQUIZ LAW OFFICE

8
9 By:

/S/ Craig A. Marquiz

Craig A. Marquiz

Attorneys for Rising Sun Plumbing, LLC

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11
12 Dated: June 29, 2010

GORDON & REES

13
14 By:

/S/ Keith C. Cramer

KEITH C. CRAMER

Attorneys for San Gabriel, Inc.

15
16
17 Dated: June 29, 2010

HELM & ASSOCIATES

18
19 By:

/S/ Kevin E. Helm

KEVIN E. HELM

Attorneys for Defendant Pipes Paving

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21
22 **ORDER**

23
24 **IT IS SO ORDERED.**

25
26 DATE: _____

Magistrate Judge Robert J. Johnston